IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10758 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

BUDDHISAGAR PUNJABHAI - Respondent(s)

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Appearance :
MS HANSA PUNANI A.G.P. for Petitioner No(s).: 1.
MR SHASHIKANT S GADE for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI
Date : 22/08/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 3rd November, 1999 passed by the Labour Court, Kalol in Reference [L.C.K.] No. 88/85, whereby the Labour Court has directed the petitioner to reinstate the respondent to his original post considering his

services as continuous with 50% back wages.

2. The short facts of the case are that the respondent was working as a daily wager with the petitioner. It is the case of the respondent that he is working as such since last four years. The petitioner without following any procedure under the Industrial Disputes Act, 1947 orally terminated the services of the respondent w.e.f. 7th March, 1983.

2.1. Feeling aggrieved by the said order, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Kalol for adjudication. The Labour Court after appreciating the materials produced before it, passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the parties and have perused the materials produced on record. While admitting the matter on 11th October, 2000, this Court had stayed the implementation of the impugned award qua back wages. As stated by learned counsel for the respondent that the petitioner has reinstated the respondent in the first week of August, 2005, this Court is not considering

this petition so far as the grant of reinstatement is concerned. Therefore, the only question which is not required to be considered is with regard to grant of back wages only.

4. Having gone through the award, it appears that the Labour Court has not given any cogent reasons while awarding back wages to the respondent. An order of payment of back wages cannot be passed in a mechanical manner, but a host of factors are to be taken into consideration before passing any such order. In the present case, the Labour Court has awarded back wages while granting the benefit of doubt to the respondent.

4.1. Moreover in the principle laid down by the Apex Court in the case of **Ram Ashrey Singh v. Ram Bux Singh reported in (2003) II L.L.J. p. 176** and in the case of **General Manager, Haryana Roadways v. Rudhan Singh reported in J.T. 2005 (6) S.C. p. 137 [2005 (5) S.C.C. p. 591]**, the respondent herein cannot be said to be entitled for back wages. Hence, the impugned award qua granting the back wages is required to be quashed and set aside.

5. In the result, the petition is partly allowed. The impugned award dated 3rd November, 1999 passed by the Labour Court, Kalol in Reference [L.C.K.] No. 88/85 qua back wages is quashed and set aside and rest of the award is confirmed. It is clarified that the respondent shall be entitled for all the benefits as per the award of the Labour Court from 11th October, 2000 till he is reinstated in service. The said benefits to be given within a period of three months from the date of receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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